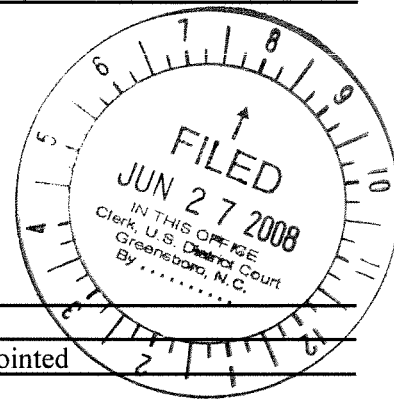


UNITED STATES DISTRICT COURT

for the

Middle District of North Carolina



United States of America

v.

MICHAEL HAYWOOD MONTGOMERY

Date of Previous Judgment: August 16, 2002 and
January 18, 2006) Case No: 1:02CR98-1) USM No: 21675-057

) Christopher R. Clifton, Appointed

) Defendant's Attorney

Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion,

IT IS ORDERED that the motion is:

☒ DENIED. ☐ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of _____ is reduced to _____.

I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)

Previous Offense Level: _____

Amended Offense Level: _____

Criminal History Category: _____

Criminal History Category: _____

Previous Guideline Range: _____

Amended Guideline Range: _____

II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE

☐ The reduced sentence is within the amended guideline range.

☐ The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.

☐ Other (explain):

III. ADDITIONAL COMMENTS

Based on the calculations in the Presentence Report, which were adopted by the Court at sentencing, Mr. Montgomery was held accountable of over 67,500 grams of cocaine base ("crack"). The amendments to Guideline 2D1.1 do not affect the calculation of the base offense level for a defendant who is held accountable for over 4,500 grams of cocaine base ("crack"). Therefore, based on the quantity of crack for which Defendant was accountable here, Defendant's base offense level would not change under the amended crack cocaine Guideline. Defendant's Motion will therefore be DENIED. The determination that the defendant is ineligible for a reduction is made with the consent of the Government and the defendant.

All provisions of the judgment dated August 16, 2002 and January 18, 2006 shall remain in effect.

IT IS SO ORDERED.Order Date: 6/27/2008Effective Date: 7/07/2008

(if different from order date)

James A. Beaty, Jr.
Judge's signature

James A. Beaty, Jr., Chief United States District Judge
Printed name and title